IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2090 OF 2004

Nandlal Tontai & Anr. ... Petitioners

V/s

State of Maharashtra & Anr. ... Respondents

Shri A.R. Pande for petitioners

Ms. Kokila Kalra with Smt. Manjula Rao, B.K.Kalra for respondent No.3

Shri A.S. Shitole APP for the State.

Coram : V.M. Kanade, J.

Dated : 12/04/2005.

P.C. :-

1 I have heard the learned counsels for the petitioner, respondent No.3 and APP for the State.

2 The order dated 22.12.204 passed by this court is as under.

"Request is made on behalf of the Respondent No.3 who appears in person fr adjournment to engage Advocate to espouse her cause. Post this matter in the weeking commencing from 17th January 2005.

Petitioners' son Kiran, shall not be arrested by the investing officer in connection with C.R.No.47/04 unless 72 hours advance notice is given to him to enable him to take appropriate remedy as may be permissible by

law”.

This order shall stand confirmed. The petitioners are challenging the criminal complaint filed by the respondents. It is submitted by the learned counsel for the respondents that the consent terms have already been filed in the Session Court. Since the consent terms are filed in the Sesssion Court, I do not seen any reasons to interfere with the said order while exercising the inherent power under section 482 of Code of Criminal Procedure. The petitioners are at liberty to apply to the Session Court for discharge under section 245 of Code of Criminal Procedure. If such application is made, the Session Court shall consider the same on merits and in accordance with law. All the questions raised in this petition are kept open. In view of these directions, the learned counsel for the petitioners seeks permission to withdraw the criminal writ petition. Criminal writ petition is allowed to be withdrawn. However, the order dated 22/12/2004 shall remain in force.The petitioners are exempted from appearing in the trial court. If the application for exemption is made, the same application shall be considered favourably by the Session Court and only when their presence is required during the trial, they may direct to remain present in the court. This order is passed considering the old age of the petitioners.

(V.M.Kanade,J.)